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Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 for the biennium 2004-2005

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the proposed requirements for the biennium 2004-2005 of the International Criminal Tribunal for the Former Yugoslavia (A/58/226). The Committee also took note of the report of the Secretary-General on the progress made by the Tribunal in reforming its legal aid system (A/58/288). During its consideration of the reports, the Committee met with the Prosecutor, Deputy Prosecutor and the Registrar of the Tribunal and with representatives of the Secretary-General, who provided additional information.

2. The Advisory Committee has also considered the report of the Secretary-General on the supplementary estimates arising in respect of Security Council resolution 1503 (2003) on the establishment of a Prosecutor of the International Criminal Tribunal for Rwanda (A/58/368). The Committee's comments and recommendations on those estimates, which also have an impact on the budget of the Tribunal for the Former Yugoslavia (see paras. 16, 19 and 25 below), are contained in its report on the proposed budget for the Rwanda Tribunal.

3. As indicated in the introduction to the proposed budget (A/58/226, paras. 3-4), the President of the International Criminal Tribunal for the Former Yugoslavia, in April 2002, presented a report on the judicial status of the Tribunal and the

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prospects for referring certain cases to national courts. The report contained a completion strategy, which provided for setting 31 December 2008 as the date for completion of first-instance trials and 31 December 2010 as the date for completion of appeals. The report of the President of the Tribunal was endorsed by the Security Council on 23 July 2002 (S/PRST/2002/21).

4. The Advisory Committee observes that the completion strategy of the Tribunal comprises two main pillars, namely: (a) the fair and expeditious completion of trials by the Tribunal in accordance with the time line set for the completion strategy; and (b) the transfer of cases against accused persons detained under the authority of the Tribunal to national courts of Bosnia and Herzegovina.

5. The Secretary-General indicates in the proposed budget that in support of the first pillar, the Tribunal will continue to undertake six concurrent trials through the use of 16 permanent and 9 ad litem judges and to complete all related appeals in the most expeditious manner (A/58/226, para. 6). The Advisory Committee notes that the Office of the Prosecutor will strive to meet the goal of bringing all priority investigations to the indictment stage by the end of 2004 and that, as investigations are completed, a gradual reduction in posts will be effected in 2005 within the Investigations Division, resulting in the abolition of 43 posts and the redeployment of 18 posts to other priority areas of the Tribunal (see ibid., para. 8).

6. As far as the second pillar is concerned, the Secretary-General indicates that a transition team will be established within the Office of the Prosecutor to oversee: (a) the preparation of the transfer of cases from the Tribunal to the State court in Bosnia and Herzegovina in support of the completion strategy; and (b) the preparation of dossiers for all other lower-level war crime perpetrators identified during investigations, with a view to transferring those dossiers to the appropriate prosecuting authorities in the countries of the former Yugoslavia (ibid., para. 10). The Advisory Committee was informed that 17 cases involving 62 suspects were currently being considered for transfer to national courts, as follows: 12 cases (48 suspects) to the courts of Bosnia and Herzegovina; 3 cases (8 suspects) to the courts of Croatia; and 2 cases (6 suspects) to the courts of Serbia and Montenegro. The Committee was provided, upon request, with additional information on the role of the transition team for courts in Croatia and in Serbia and Montenegro, which is contained in annex I below.

7. The Advisory Committee was provided with information and statistics, as at September 2003, on activities carried out from 1996 to 2003:

(a) 38 individuals have been convicted by trial chambers;

(b) 1 individual has been acquitted in the first instance and 4 have been acquitted by the Appeals Chamber;

(c) 18 convictions have been sustained by the Appeals Chamber;

(d) 18 cases involving 29 accused persons have reached the pre-trial stage;

(e) 3 trials involving 4 accused persons are ongoing, 4 persons involved in 2 cases are awaiting judgement by the trial chamber, and 6 accused persons who have pleaded guilty are awaiting sentencing;

(f) 7 cases involving 12 accused persons are at the appeals stage, and 8 interlocutory appeals are pending;

(g) Arrest warrants have been publicly issued for 16 accused, who are still at large;

(h) 15 accused persons have pleaded guilty.

II. Proposed budget for the biennium 2004-2005

8. **The Advisory Committee notes with satisfaction that the proposed budget of the Tribunal for the biennium 2004-2005 has for the first time been presented in a results-based format, as requested by the General Assembly in its resolution 57/288 of 20 December 2002. In the opinion of the Committee, the presentation represents an improvement in the state of results-based budgeting.**

9. The resource requirements proposed for the Tribunal for the biennium 2004-2005 under assessed contributions are estimated at $262,283,100 gross ($234,808,500 net), before recosting (see ibid., table 2). This represents a decrease of $370,600 gross, ($992,500 net) compared with the appropriation for the biennium 2002-2003. The Committee points out that those estimates include a provision of $4,518,100 representing the delayed impact of the establishment of 90 posts for the Tribunal during the biennium 2002-2003. After recosting, estimated at $67,333,000 gross ($63,878,500 net), the proposed resource requirements for 2004-2005 amount to $329,616,100 gross ($298,687,000 net). However, the decision of the Security Council to establish the new position of Prosecutor of the International Criminal Tribunal for Rwanda (resolution 1503 (2003)) entails a decrease in the estimated resource requirements for the International Criminal Tribunal for the Former Yugoslavia in the amount of $2,293,100 gross ($1,915,200 net), thus reducing overall requirements to $327,323,000 gross ($296,771,800 net) for the biennium 2004-2005 (see A/58/368, para. 12).

10. Since the estimates before recosting represent a decrease as compared with the revised appropriation for the biennium 2002-2003, the increase of nearly 25 per cent in resource requirements, even after the reduction attributable to the creation of the post of Prosecutor for the International Criminal Tribunal for Rwanda is attributable to recosting. The largest components of the recosting are the impact of the projected fluctuations in the exchange rate ($45,567,900) and inflation ($12,151,700) (see A/58/226, para. 19). Moreover, the recosting includes a provision of $5,899,200 reflecting adjustments to standard salary costs. Annex II below, submitted by the Secretariat, contains budgetary assumptions used in formulating the proposed budget for the International Criminal Tribunal for the Former Yugoslavia. As shown therein, the budget estimates were calculated on the basis of a projected exchange rate of €0.89 to US$ 1.

11. **The Advisory Committee points out that the value of the United States dollar to major world currencies has been volatile during the past 12 months. The Committee reiterates its view on the issue of recosting resulting from currency fluctuations.**[1]

12. Total extrabudgetary resources for the biennium 2004-2005 are estimated at $7,252,200, reflecting a decrease of 42.2 per cent, as compared with voluntary contributions of $12,555,100 for 2002-2003 (ibid., table 2). The Advisory Committee was informed upon enquiry that the reduction in extrabudgetary

resources resulted from the anticipated completion by the end of 2003 and 2004 of a number of projects in the areas of exhumations, investigations and prosecution.

13. The proposed staffing table of the Tribunal for the biennium 2004-2005 (see ibid., table 3) provides for 1,018 assessed budget posts (not including 16 permanent and 9 ad litem judges) and 18 extrabudgetary posts, reflecting the abolition of 43 assessed budget posts (34 Professional and 9 General Service), the conversion to temporary status of three posts currently funded from general temporary assistance (2 P-4 and 1 P-3), the upward reclassification of one P-4 and four P-3 posts and a number of internal redeployments (see ibid., para. 18).

14. Moreover, as indicated in the report of the Secretary-General on supplementary estimates arising in respect of Security Council resolution 1503 (2003) (A/58/368, paras. 10-12), the decision of the Council to establish the post of Prosecutor for the International Criminal Tribunal for Rwanda will entail a further reduction of 10 assessed budget posts (8 Professional and 2 General Service) for the International Criminal Tribunal for the Former Yugoslavia, thus bringing the total number of assessed budget posts for the biennium 2004-2005 to 1,008 (469 Professional and 539 General Service).

15. The budget estimates assume a vacancy factor for continuing posts of 6.5 per cent for the Professional and higher categories of staff and 4.0 per cent for the General Service and related categories (see annex II below). The Advisory Committee was provided with vacancy statistics by organizational unit of the Tribunal as at 30 September 2003, which indicated a vacancy rate of 7.8 per cent in the Professional category and 4.6 per cent in the General Service category in the Office of the Prosecutor and 7.5 per cent in the Professional category and 7.0 per cent in the General Service category in the Registry. **Given that it will likely be increasingly difficult to recruit and retain staff as the date for completion of the work of the Tribunal draws nearer, it is unlikely that these vacancy statistics will improve significantly, if at all, even with the reduction in the overall number of posts described in paragraph 13 above.**

A. Chambers

16. The Advisory Committee notes that the budget estimate for the Chambers is not affected by the decision of the Security Council to create the new position of Prosecutor of the International Criminal Tribunal for Rwanda. The resource requirement for the Chambers for 2004-2005 amounts to $9,000,400 gross before recosting, as compared with the appropriation of $8,776,200 gross for the biennium 2002-2003, reflecting resource growth of $224,200, or 2.6 per cent (see A/58/226, table 2). The total provision of $9,000,400 gross includes $8,823,600 for salaries and allowances for 14 permanent and 9 ad litem judges, $30,500 for consultants and experts and $146,300 for travel of the President of the Tribunal and the judges. The salaries and allowances of the judges have been calculated on the basis of the terms and conditions of service as established by the General Assembly in its resolutions 53/214 of 18 December 1998, 55/249 of 12 April 2001 and 56/285 of 27 June 2002. The next comprehensive review of the emoluments, pensions and other conditions of service of the judges is to be undertaken during the fifty-ninth session of the Assembly. The Committee notes that the estimates may need to be adjusted in the light of decisions taken at that time.

17. In the supplementary information provided to the Advisory Committee, requirements for travel are estimated at $146,300, reflecting resource growth of 24.2 per cent. That amount includes a provision of $32,000 to cover the travel and incidental expenses of the judges to a European State in connection with a seminar. Upon request, the Committee was informed that nine judges had spent a total of 58 days on extrajudicial activities during 2002 while on official travel and that eight judges had spent 24 days on official travel as at the end of September 2003. **The Committee recalls its view that the judicial activities at The Hague should have priority over public relations activities and attendance at external meetings (see A/55/642, para. 28); therefore the Committee welcomes the decrease in travel of the judges in 2003.**

18. The Advisory Committee notes that by the end of the biennium 2004-2005, it is expected that the Chambers will have completed 12 trials, 12 pre-trial procedures, 6 pre-appeal procedures, 8 appeals from final trial chamber judgements and all interlocutory appeals arising from the above (see A/58/226, para. 23). The Committee was provided with projected workload indicators for the organs of the Tribunal for the biennium 2004-2005. For the Chambers, the Committee notes that the number of court sessions will increase from the 3,402 estimated for 2002-2003 to 3,956 projected for 2004-2005 (based on the new method for counting sessions introduced as from January 2002, whereby one court day equals four sessions: two in the morning and two in the afternoon).

B. Office of the Prosecutor

19. **The Advisory Committee reiterates the need for close coordination between the two Tribunals and, with the appointment of a separate prosecutor for the International Criminal Tribunal for Rwanda, trusts that steps will be taken to ensure the continuation of this collaboration in all areas of the work of the two Tribunals.**

20. The proposed budget for the Office of the Prosecutor for the biennium 2004-2005 amounts to $79,134,500 gross (before recosting), a decrease of $2,756,200 gross, or 3.4 per cent, compared with the appropriation of $81,890,700 gross for the biennium 2002-2003. Recosting the provisions to 2004-2005 rates would increase them by $20,801,400 to a total of $99,935,900 gross (see ibid., table 2). The decision to create a new position of Prosecutor of the International Criminal Tribunal for Rwanda entails a decrease in the estimated resource requirements for the Office of the Prosecutor in the amount of $2,293,100 gross, thus reducing the assessed budget requirements for the Office to $97,642,800 gross for the biennium 2004-2005 (see A/58/368, table 4).

21. The proposed staffing requirements for the Office of the Prosecutor for 2004-2005 reflect the abolition of 43 posts and the redeployment of 13 posts to the Registry (see A/58/226, para. 39). Moreover, the decision of the Security Council to create a new position of Prosecutor of the International Criminal Tribunal for Rwanda entails a further reduction of 10 posts for the Office of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia for the biennium 2004-2005, thus bringing the total proposed staffing requirements of the Office to 354 posts (215 Professional and 139 General Service).

22. As indicated in the proposed budget, 34 investigator posts (16 P-3 and 18 P-2) would be abolished effective 1 July 2005, and 9 General Service (Other level) administrative posts in the Skopje and Pristina field offices would be abolished effective 1 January 2005 (see ibid., para. 17 (a)). The Advisory Committee notes that while all investigations will be brought to the indictment stage by the end of 2004 (see ibid., para. 8), a reduction in investigator posts will not start before 1 July 2005; no time frame is given for the redeployment from the Investigations Division of 13 posts (2 P-4, 7 P-3, 2 P-2 and 2 General Service (Other level)) to the Registry and 5 posts within the Office of the Prosecutor (1 P-3 and 2 P-2 to the Immediate Office of the Prosecutor and 2 P-4 to the Prosecution Division). The Advisory Committee notes that even after all the abolitions and redeployments, 120 Professional and 36 General Service posts would remain in the Investigations Division. According to the Secretary-General, those posts would be required to support all phases of the prosecution process in addition to providing support for the preparation of cases and dossiers for referral to local jurisdictions, as envisaged in the completion strategy (see ibid., paras. 30-36). **The Committee points out in this connection that the process of determining the number of posts to be abolished, redeployed or retained does not appear to be transparent from either the budget document or the supplementary information provided to the Committee, nor is it supported by a thorough analysis of workload indicators. The Committee requests that the volume of work and the pace of completion of the related activities, especially in the Office of the Prosecutor, be continuously monitored in order to determine whether some of the posts involved could be abolished or released for transfer to other areas of the Tribunal before the second half of 2005. Subject to that request, in order to ensure that the completion strategy is adhered to, the Committee recommends acceptance of the staff capacity proposed for the Office of the Prosecutor.**

23. The Advisory Committee notes from the supplementary information provided to it that the requirements of the Office of the Prosecutor for overtime are estimated at $279,000, reflecting an increase of $89,800, or 47.5 per cent. According to the Secretariat, this increase relates primarily to the additional work required by the trial support staff. **The Committee points out, however, that on the basis of the available documents it was not in a position to ascertain whether any attempt had been made to quantify or justify either the total or the additional resources requested. The same comment of the Committee applies to the Office's requirements for consultants, which are estimated at $387,500, reflecting an increase of $80,800, or 26.3 per cent.** According to the Secretariat, approximately 104 consultants would be required during the biennium for up to 520 days, which would involve related travel costs. **The Committee points out that at the stage when an important element of the Tribunal's functions, such as investigations, is expected to be substantially curtailed during the biennium 2004-2005, any increase in resource requirements for the biennium should have been explained and justified much more thoroughly.**

24. The supplementary information provided to the Advisory Committee indicates travel requirements of $4,717,000 for investigations and prosecutions, which amounts to a decrease of $1,588,100, or 25.2 per cent. According to the Secretariat, a decrease in investigative travel is not expected until the end of 2004. The Committee notes, however, that certain support functions of the Office of the Prosecutor will be affected by the reduction in investigative activities during 2004.

For example, the Skopje and Pristina field offices would be closed at the end of 2004. **The Committee is of the view that the volume of investigative activities will not stop abruptly at the end of 2004 but will decrease gradually throughout the year.** With regard to prosecution-related travel, the Committee notes from the Tribunal's workload indicators that the number of witnesses interviewed is anticipated to decline from 6,300 during the biennium 2002-2003 to 3,000 during the biennium 2004-2005. This should, therefore, reduce the need for travel for the purpose of preparing witnesses to give evidence. **Therefore, the Committee is of the view that further reductions are possible in the requirements proposed for investigative and prosecution-related travel in the Office of the Prosecutor.**

C. Registry

25. The resource requirements for the Registry for the biennium 2004-2005 are estimated at $174,148,200 gross (before recosting), an increase of $2,161,400, or 1.3 per cent, over the 2002-2003 appropriation of $171,986,800 gross (see ibid., table 2). In addition, it is estimated that the Registry will administer extrabudgetary resources amounting to $5,567,700, as compared with $5,736,300 estimated for 2002-2003 (ibid., table 8). The budget estimates for the Registry are not affected by the Security Council's decision to create the new position of Prosecutor of the International Criminal Tribunal for Rwanda.

26. The staffing establishment of the Registry in the proposed assessed budget for 2004-2005 comprises 654 posts (254 Professional, 245 General Service and 155 Security Service), reflecting the inward redeployment of 13 posts from the Investigations Division of the Office of the Prosecutor, the conversion to temporary status of three posts (2 P-4 and 1 P-3) currently funded from general temporary assistance funds and 5 reclassifications (1 P-4 and 4 P-3). The Advisory Committee sought clarification with respect to the information contained in paragraphs 18 (f) and 44 of the budget document and was informed that the two liaison officer posts in Belgrade and Sarajevo would be established, effective July 2005, through the redeployment of 2 P-3 posts from the Office of the Prosecutor.

27. The breakdown by organizational unit of the 13 posts (2 P-4, 7 P-3, 2 P-2 and 2 General Service (Other level)) proposed for redeployment from the Investigations Division of the Office of the Prosecutor to the Registry is as follows:

(a) Redeployment of 2 P-2 posts and 1 General Service (Other level) post to the Victims and Witnesses Section, effective January 2005;

(b) Redeployment, effective January 2005, of 2 P-4 posts and, effective July 2005, of 4 P-3 posts to the Chambers Legal Support Section;

(c) Redeployment of 1 General Service (Other level) post to the Detention Unit, effective January 2005;

(d) Redeployment of 2 P-3 posts to the Registry Advisory Section, effective July 2005;

(e) Redeployment of 1 P-3 post to the Human Resources Section of the Division of Administration, effective July 2005.

The Advisory Committee concurred with the proposed redeployment of 13 posts from the Investigations Division of the Office of the Prosecutor to the Registry (see

also para. 22 above). However, the Committee sought clarification with regard to the redeployment of two P-4 and four P-3 posts to the Chambers Legal Support Section. The Committee was informed that the four P-3 posts were to be subsequently reclassified to the P-4 level. **The Committee finds the proposal for such reclassification to be inconsistent with United Nations budgetary practices. It was informed that the redeployments and subsequent reclassifications would allow all six trial sections in the Chambers Legal Support Section, which are currently managed by a legal officer at the P-3 level, to be headed at the P-4 level. The Committee points out that currently the six trial sections are organizationally structured into three trial chambers headed by a senior legal officer at the P-5 level, and the Committee does not consider that there is a need to introduce yet another layer of hierarchy.**

28. **Moreover, the Advisory Committee points out that the proposed redeployments are to be carried out in July 2005, or six months before the end of the biennium. The Committee is of the view that the proposal to redeploy two P-4 posts to the Chambers Legal Support Section does not constitute evidence in support of the proposal that all six trial sections need to be headed at the P-4 level with effect from July 2005. The Committee requests that the need to reclassify the P-3 posts be reviewed and, if the reclassification is found to be justified, that the request be resubmitted in the context of the proposed budget for the next biennium. At this stage, therefore, the Committee does not recommend the reclassification of the four P-3 posts.**

29. As far as the proposed reclassification of a P-4 post to the P-5 level is concerned, the Advisory Committee notes that the proposal is made in respect of the post of Chef de Cabinet in the Office of the President. Information in support of the proposal is contained in paragraph 17 (b) of the proposed budget. **The Committee recommends approval of the reclassification.**

30. With regard to the proposed conversion of three posts (2 P-4 and 1 P-3) currently funded from general temporary assistance to temporary status for oversight functions, the Advisory Committee notes that the financing of the three posts was approved during the biennium 2002-2003 (see A/58/226, para. 17 (d)). The Administration indicates that the oversight functions would be required on a continuing basis for the duration of the Tribunal's mandate. The proposed budget reflects a corresponding reduction of $452,500 in general temporary assistance due to the proposed conversion. The Committee points out that the proposal for conversion appears to be consistent with its previous observation with regard to the need to consider the issue of providing resources on a continuing basis for audit and investigations under the biennial budget of the Tribunal (see A/56/717, para. 7). **The Committee recommends acceptance of the requested conversion.**

31. The Advisory Committee notes from the supplementary information provided to it that a provision of $302,800 (before recosting) is made under consultants and experts, reflecting an increase of $114,100, or 60.4 per cent. According to the Secretariat, the increase is due in part to the anticipated increase in the number of expert witnesses called to testify. However, as shown in workload indicators provided by the Secretariat, the number of witnesses for the biennium 2004-2005 is projected to remain at the current level of 70. **The Committee believes, therefore, that there is room to adjust those estimates.**

32. The travel requirements for the Registry for 2004-2005 amount to $4,590,200 (before recosting), a decrease of $52,800. They comprise $1,035,100 for official travel of staff and $3,555,100 for travel and allowances of witnesses, support persons and dependants and other related costs. A total of 1,344 witnesses and support persons would travel to The Hague during the biennium 2004-2005, compared with 1,292 for the biennium 2002-2003. The Advisory Committee was provided, upon request, with additional information on the estimates for travel of witnesses, which is contained in annex III below.

33. The Advisory Committee notes that the provision for travel of staff includes requirements for the recruitment and testing of language staff and for coordinating with the International Criminal Tribunal for Rwanda. **The Committee points out in this connection that the workload related to the recruitment and testing of language staff is unlikely to be as heavy as in the past since most of the initial recruitment has been completed. The Advisory Committee welcomes and stresses the need for continuing coordination and collaboration between the two Tribunals in all areas of activity. However, with the establishment of a post of Prosecutor for the International Criminal Tribunal for Rwanda, the need for travel in order to coordinate with the Rwanda Tribunal during the biennium 2004-2005 may not be as pressing as it was when one Prosecutor served the two Tribunals. The Committee is of the view, therefore, that there is room for adjustment in the proposed requirements for travel of Registry staff.**

34. The Advisory Committee recalls that in the past it has expressed concern regarding the control and management of contractual services, particularly with regard to defence counsel (see, for example, A/55/642, paras. 53-59).[2] The Committee also recalls that it had requested that information be provided on the management of the legal aid programme of the Tribunal (see A/57/593, para. 28). The General Assembly, in its resolution 57/288 of 20 December 2002, requested the Secretary-General to submit a comprehensive report on the progress made by the Tribunal in reforming its legal aid system, particularly with regard to rationalizing the costs of defence counsel and establishing indigence, and the Secretary-General submitted a report pursuant to that request (A/58/288). **The Advisory Committee welcomes the efforts and measures to rationalize the costs and improve the effectiveness of the legal aid system, in particular the appointment of a financial investigator in March 2003 to assess the ability of the accused to cover the costs of defence.** As indicated in the report of the Secretary-General, full legal aid has already been cut back to partial legal aid for six accused, based on interviews and evidence gathered during field missions. Additional investigations are under way that promise additional savings (ibid., para. 41).

35. From the documentation available to it, the Advisory Committee was not in a position to ascertain what effect the measures outlined in the report on the legal aid system had on the estimated resource requirements of $29.5 million for defence counsel for the biennium 2004-2005, even though, according to the supplementary information provided to it, the estimates took into account the application of the revised system of paying for trials adopted as from July 2002. Upon enquiry, the Committee was informed that since the introduction of the new system a number of new factors have kept defence costs relatively high, namely: (a) the issuance of indictments against high-profile accused, which has resulted in an increase in the proportion of highly complex and difficult cases; and (b) the unanticipated level of resort by accused persons to rule 115 of the Rules of Procedure and Evidence, which

has resulted in exceptional levels of post-trial disclosure. According to the Secretariat, under the old payment system the above factors would have undoubtedly generated additional costs; furthermore, another advantage of the new system is that the duration of trials is expected to be reduced, as defence lawyers will no longer have an incentive to prolong cases.

36. **The Advisory Committee requests that detailed information be provided to it in the context of the next budget estimates for the Tribunal on the effectiveness of the measures outlined in the report of the Secretary-General on the legal aid system.**

37. The Skopje and Pristina field offices will be closed at the end of 2004 (see para. 24 above). The Advisory Committee was informed that, although savings would be achieved owing to the closure of the Skopje office, which is located in commercial premises, additional resources would be required to rent a commercial premises for the Banja Luka office following the closure of the United Nations Mission in Bosnia and Herzegovina. The Committee was also informed, upon enquiry, that all requirements related to the Skopje and Pristina offices have been budgeted for 2004 only, including temporary posts and related mission subsistence allowance payments, as well as general operating expenses (rent, utilities, cleaning, insurance, petrol, etc.).

III. Conclusions and recommendations

38. **In paragraphs 22, 23, 24, 28, 31 and 33 above, the Advisory Committee has made a number of observations and recommendations with regard to the resource requirements of the Tribunal. Inasmuch as the Committee does not wish to impede the completion strategy of the Tribunal, it is not recommending specific reductions under any particular item, although significant economies should be achieved. Given the comments of the Committee in paragraphs 10 and 11 above with respect to budgeting for currency fluctuations, it is not necessary, in the opinion of the Committee, to appropriate and assess at this stage the full recosting provision projected for the next two years. Instead, the General Assembly may wish to request the Secretary-General to report on additional requirements, if any, that would arise from currency movements at a time when a more complete picture of exchange rates has emerged, namely, in December 2004. On this basis, and taking into account its comments above about the potential for economies under a number of objects of expenditure, the Committee recommends that the estimated requirements for the Tribunal for the biennium for 2004-2005 be reduced by $20 million gross.**

Notes

[1] See *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 7* and corrigendum (A/58/7 and Corr.1).

[2] The report of the Office of Internal Oversight Services on the investigation into possible fee-splitting arrangements between defence counsel and indigent detainees at the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia (A/55/759, paras. 78-93), is also relevant.

Annex I

Office of the Prosecutor's transition team

The role of the Office of the Prosecutor's transition team in dealing with the issue of transferred or referred cases is expected to be broadly the same in terms of activities and workload for all three jurisdictions where the cases will be transferred or referred to, whether Bosnia and Herzegovina, Croatia or Serbia and Montenegro. The transfer or referral of cases to the local courts in the former Yugoslavia needs to be considered in three parts.

First, it is expected that some cases that have been commenced by the Tribunal by the issuance of an indictment may be referred back for prosecution in the local courts, pursuant to rule 11 bis of the Tribunal's Rules of Procedure and Evidence. The Prosecutor anticipates that about three cases in this category, involving four fugitives, may be referred to the State court in Bosnia and Herzegovina, assuming the fugitives are apprehended.

Second, there are the priority B cases. These are cases that the Prosecutor has suspended and that will not result in indictments being issued by the Tribunal before the end of 2004. Given more time and resources, these cases would have been indicted by the Tribunal, but this would have to occur after the end of 2004. It should be stressed, however, that there is no intention to prosecute these cases before the Tribunal or to issue indictments. There are 17 investigations in this category, involving approximately 62 suspects. It is the Prosecutor's intention to refer the responsibility for the further investigation and ultimate prosecution of all of these cases to the local authorities in the former Yugoslavia. It is expected that of these 17 cases, 12 (involving 48 suspects) will be referred to the State court of Bosnia and Herzegovina; 2 cases (involving 6 suspects) will be referred to the courts of Serbia and Montenegro; and 3 cases (involving 8 suspects) will be referred to the courts of Croatia. The transition team will play a substantial role in preparing these cases, including dossiers of information and evidence, for transfer to those courts in the former Yugoslavia.

Third, there are all of the low-level perpetrators who have been identified during the course of the Tribunal's investigations since 1994. There are literally thousands of suspects in this category. Many of them are responsible for very serious crimes falling within the jurisdiction of the Tribunal, but because of the relatively low level of responsibility, these suspects were never considered appropriate for prosecution by the Tribunal. The evidence relating to these perpetrators will be compiled into separate dossiers of evidence and information, and will be delivered to the local authorities for further investigation and prosecution in the domestic courts of the former Yugoslavia, including Bosnia and Herzegovina, Croatia, Serbia and Montenegro, and probably the former Yugoslav Republic of Macedonia. The transition team will also play a very significant role in the preparation of these dossiers.

Annex II

Budgetary assumptions used in formulating the budget for the International Criminal Tribunal for the Former Yugoslavia for the biennium 2004-2005 (duty station: The Hague)

Parameter	*2002*	*2003*	*2004-2005*
Rate of exchange (euro to US$ 1)	1.07	1.07	0.89
Inflation rate (percentage)	3.4	2.3	1.9
Post adjustment multiplier (percentage)	9.9	11.6	38.7
Vacancy rates for continuing posts (percentage)			
Professional and above	6.5	6.5	6.5
General Service and related	5.0	5.0	4.0
Vacancy rates for new posts (percentage)			
Professional and above	50.0	50.0	50.0
General Service and related	40.0	40.0	40.0

Annex III

Estimates for travel of witnesses

The provisions for travel and accommodation costs for witnesses and support persons are based on a total of 1,344 witnesses and support persons, of which 1,200 are witnesses and 144 are support persons.

The estimates have been calculated on the assumption that 1,200 witnesses will travel to The Hague during the biennium for hearings and trials. The International Criminal Tribunal for the Former Yugoslavia also allows eligible witnesses, with the approval of the Registrar, to be accompanied by support persons and dependants. It is estimated that 12 per cent of witnesses will be eligible for this privilege. Therefore, provisions for travel and accommodation costs for witnesses and support persons are based on 1,344 persons (1,200 plus 12 per cent).

Anticipated expenses for transportation to The Hague and travel documents for witnesses ($875 per person) total $1,176,000 for the biennium. In addition, accommodation and meals are contracted directly by the Tribunal with local hotels at an average of $130 per person per day for seven days each ($1,223,000). A witness allowance is also paid for incidental expenses at €30 per day (US$ 32 per day, totalling $301,100). The total costs for witnesses and support persons amount to $2,700,100.

A further provision is requested for working accommodations for witness assistants in hotels where witnesses are lodged. Witness assistants are provided 24 hours a day in order to provide a focal point for witnesses queries or problems and so need to be provided with private accommodations from which to work. Working accommodations for witness assistants is contracted at the same rate as witness accommodations, even though three different assistants may use the accommodation in a 24-hour period. A provision of $360,000 is requested for 3,600 days for the biennium, at $100 per day.

Witness escort ($495,000). Victims and Witnesses Section staff are required to accompany high-risk witnesses from their homes to the courts and back again. This task includes not only the physical escort of the witnesses but also liaison with national and local authorities in the field to ensure that witnesses are put under the least possible stress. The estimate is based on 550 trips at $900 per trip (including a reduced 40 per cent daily subsistence allowance payment).

	Accommodation						*Travel*		
	Number of staff	*Destination*	*Days*	*Allowance per day*	*Number of trips*	*Subtotal*	*Air ticket plus other costs*	*Subtotal*	*Total estimates*
A. Travel, board and lodging									
Witnesses	1 200	The Hague	7	130	1	1 092 000	875	1 050 000	2 142 000
Support/dependants	144	The Hague	7	130	1	131 000	875	126 000	257 000
Subtotal A	**1 344**					**1 223 000**		**1 176 000**	**2 399 000**
B. Daily allowance (incidentals)									
Witnesses	1 200	The Hague	7	32	1	268 800		-	268 800
Support/dependants	144	The Hague	7	32	1	32 300		-	32 300
Subtotal B	**1 344**					**301 100**		-	**301 100**
C. Accommodation for witness assistants			3 600	100					360 000
D. Escort travel (includes 40 per cent daily subsistence allowance (Balkans rate))					550		900		495 000
Estimates 2004-2005									**3 555 100**